

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA *ex rel.*
CHRISTOPHER DRENNEN

Plaintiffs,

v.

FRESENIUS MEDICAL CARE
HOLDINGS, INC.

Defendant.

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Civil Action No. 09-cv-10179-GAO

**NOTICE REGARDING MOTION TO COMPEL INTERROGATORY
RESPONSES AND PRODUCTION OF DOCUMENTS RELATED TO FEES
FOLLOWING OPPOSITION TO FEE PETITION**

Relator Christopher Drennen respectfully files this statement regarding the pending motion to compel responses to fee discovery requests (ECF 351) following the filing of an opposition (ECF 368) by defendant Fresenius Medical Care Holdings, Inc. (“Fresenius”) to relator’s motion for an award of attorneys’ fees and costs (ECF 342).¹

In his discovery motion, Drennen seeks responses to contention interrogatories, specifically: a statement of objections by Fresenius as to the reasonableness of, and adequacy of documentation for, time claimed in counsel's billing records. Relator's counsel had hoped to review these objections in discovery, so that they could be addressed and potentially resolved off the Court's docket. In Fresenius's opposition to the fees motion, however, defendant attached seven appendices of objections (ECF Nos. 368-1 to 368-7) to counsel's time. Drennen's counsel intend to respond to these objections in a reply brief on the fee petition, including any supplemental descriptions for the time records, modifications to the entries or exercise of further billing judgment that may be warranted in consideration of the objections. In light of this, Drennen no longer requires responses to the contention interrogatories, and he withdraws that portion of the motion.

¹Fresenius responded to relator's discovery motion by filing an opposition (ECF 358). Relator's motion for leave to file a reply on the discovery motion (ECF 363) – and a proposed reply (ECF 363-1) – are pending.

Relator's discovery motion also seeks to compel production of defendant's billing records in this case, as such information is relevant to the Court's determination as to the reasonableness of time expended and claimed by relator's counsel. Relator does not withdraw the motion with respect to defendant's legal billing records. Indeed, this discovery is even more warranted in light of the arguments raised by Fresenius in the opposition over the reasonableness of relator's counsel's billings in this same case. Relator's counsel hope obtain and analyze this discovery from Fresenius in order to prepare a reply to Fresenius's opposition to the fees motion. Relator therefore requests that the Court rule on his pending motion to compel production of defense billing records, and set a deadline for Drennen for a reply on the fees petition with sufficient time (30 days) running from the date of Fresenius's production of its billing records, or denial of the discovery motion.

In conclusion: in light of Fresenius's opposition and statement of objections to relator's time records and fees motion, (1) Drennen withdraws that portion of the discovery motion seeking to compel responses to contention interrogatories; and (2) Drennen requests that the Court rule on the portion of the motion seeking production of defendant's attorney fee billing records, and set a deadline to reply to the opposition in connection with the fee petition 30 days after Fresenius produces its billing records or the Court denies the discovery motion.

Respectfully submitted,

Dated: November 5, 2020

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CERTIFICATE OF SERVICE

I, Jeremy L. Friedman, declare that a copy of the attached pleading was served electronically on all parties listed with the Court for electronic service through the Court's ECF filing system on this day.

I declare under penalty of perjury that the above is true and correct. Executed this 5th day of November, 2020, at Oakland, CA.

/s/Jeremy L. Friedman
Jeremy L. Friedman

